IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 890 OF 1999

H.A.L.(N.D.) Employees Co-op.
Credit Society Ltd.& Anr. ... Petitioners.

Versus

The State of Maharashtra & Ors... ... Respondents.

Mr. Y. R. Naik for the Petitioners.

Mr. P. M.Patil, AGP for Rspondent Nos.1 to 4.

Mr. P. N. Joshi for Respondent Nos.7 & 8.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 25TH JULY, 2006.

P.C. :

The following prayers are made in the writ petition:

(a) That this Honourable Court may be pleased to issue appropriate writ, direction or order under Articles 226 and 227 of the Constitution of India and strike down sections 83 and 88 of the Maharashtra Cooperative Societies Act, 1960 as ultra vires the Constitution of India.

(b) That this Honourable Court may be pleased to issue

appropriate writ, direction or order under Articles 226 and 227 of the Constitution of India calling for the records and proceedings of the case from Respondent No.2 and after looking into the legality of his order dated 16th December, 1998 be pleased to quash and set aside the same and a writ of prohibition be issued restraining Respondent No.4 from proceeding with the enquiry under Section 83 of the Act.

2. At the outset, Mr. Y. R. Naik, Counsel for the petitioners, brought to our notice the order dated 2nd February, 2006 whereby name of petitioner no.2 has been struck off from the array of party. He submitted that petitioner no.1 is not desirous of pressing prayer (a). He was candid enough in submitting that as regards the contentions raised in writ petition that de novo enquiry under Section 83 of the Maharashtra Co-operative Societies Act, 1960 could not have been ordered, the learned Single Judge of this Court in the case of **Krishna Sahebraoji Patil Dongaonkar & others v/s State of Maharashtra & others,** 2004(6) Bom.C.R. 692, has taken a view that there is no specific bar for initiating the de novo enquiry.

3. In what Mr. Y. R. Naik submitted, the writ petition is liable to be dismissed. Prayer (a) is not

being pressed. Prayer (b), in our considered view, firstly cannot be granted at the instance of petitioner no.1 Society. The name of petitioner no.2 has already been struck off from the array of parties. The learned Single Judge of this Court has already taken a view that there is no specific bar for initiating de novo enquiry under Section 83 of the Maharashtra Co-operative Societies Act, 1960. Nothing has been shown by the Counsel for the petitioner that persuade us to reconsider the aspect about initiating de novo enquiry under Section 83.

4. For all these reasons, we dismiss the writ petition. Rule discharged.

5. No costs.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)